

## PART 3470—COAL MANAGEMENT PROVISIONS AND LIMITATIONS

### Subpart 3471—Coal Management Provisions and Limitations

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AUTHORITY: 30 U.S.C. 189 and 359; and 43 U.S.C. 1701 *et seq.*

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### Subpart 3471—Coal Management Provisions and Limitations

#### § 3471.1 Land description requirements.

##### § 3471.1–1 Land description and coal deposit in application.

(a) Any application for a lease, lease modification, or license to mine shall include a complete and accurate description of the lands for which the lease, lease modification, or license to mine is desired.

(b) If the land has been surveyed under the public land rectangular survey system, each application shall describe the land by legal subdivision (section, township, and range), or aliquot part thereof (but not less than 10 acres).

(c) Where protraction diagrams have been approved and the effective date has been published in the FEDERAL REGISTER, the application for land shown on such protraction diagrams and filed on or after the effective date shall contain a description of the land according to the section, township, and range shown on the approved protraction diagrams.

(d)(1) If the land has not been surveyed on the ground and is not shown on the records as covered by protraction diagrams, the application shall describe the land by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, in cardinal directions except where the boundaries of the land are in irregular form, and connected by courses and distances to an official corner of the public land surveys. In Alaska, the description of unsurveyed land shall be connected by courses and distances to either an official corner of the public land surveys or to a triangulation station established by an agency of the United States such as the Geological Survey,

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the National Oceanic and Atmospheric Administration, or the International Boundary Commission, if the record position is available to the general public.

(2)(i) If the land is acquired land in a non-public land state which has not been surveyed under the rectangular system of public land surveys, the land shall be described as in the deed or other document by which the United States acquired title to the lands or minerals.

(ii) If the land constitutes less than the entire tract acquired by the United States, it shall be described by courses and distances between successive angle points on its boundary tying by course and distance into an identifiable point listed in the description in the deed or other document by which the United States acquired title to the land.

(iii) If the description in the deed or other document by which the United States acquired title to the land does not include the courses and distance between the successive angle points on the boundary of the desired tract, the description in the application shall be expanded to include such courses and distances.

(iv) The application shall be accompanied by a map on which the land is clearly marked showing its location with respect to the administrative unit or project of which it is a part. It is not necessary to submit a map if the land has been surveyed under the rectangular system of public land surveys, and the land description can be conformed to that system.

(v) If an acquisition tract number has been assigned by the acquiring agency to the tract, a description by tract number will be accepted.

(vi) Any accreted land not described in the deed to the United States shall be described by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, and connected by courses and distances to an angle point on the perimeter of the acquired tract to which the accretions belong.

### § 3471.1-2 Land description in lease.

(a) All unsurveyed lands in a public land survey system state shall have a cadastral survey performed at Federal

Government expense before a lease or license to mine may be issued, except for areas covered by a skeleton survey, i.e. Utah and Alaska, and the lease when issued shall be described by legal subdivision (section, township, and range), or aliquot part thereof (but no less than 10 acres).

(b) If the land is acquired land in a non-public land state, the land in the lease shall be described in the same manner provided for lease applications under § 3471.1-1(d)(2) of this title.

### § 3471.2 Effect of land transactions.

#### § 3471.2-1 Disposal of land with a reservation of minerals.

(a) Where the lands included in a lease or license to mine have been or may be disposed of with reservation of the coal deposits, a lessee or the holder of a license to mine must comply fully with the law under which the reservation was made. See, among other laws, the Acts of March 3, 1909 (34 Stat. 844; 30 U.S.C. 81); June 22, 1910 (35 Stat. 583; 30 U.S.C. 83-85); December 29, 1916, as amended (39 Stat. 862; 43 U.S.C. 291-301); June 17, 1949 (63 Stat. 200); June 21, 1949 (63 Stat. 214; 30 U.S.C. 54); March 8, 1922 (42 Stat. 415; 48 U.S.C. 376-377); and October 21, 1976 (90 Stat. 2759; 43 U.S.C. 1719).

(b) Any sale or conveyance of acquired lands by the agency having jurisdiction shall be subject to any lease or license to mine previously issued under the Mineral Leasing Act for Acquired Lands.

(c) Leases on acquired lands outstanding on August 7, 1947, and covering lands subject to the Mineral Leasing Act for Acquired Lands may be exchanged for new leases to be issued under that Act.

(d) When: (1) The coal is to be mined by other than underground mining techniques, (2) the surface of the land is owned by a qualified surface owner, and (3) the lease is issued after August 3, 1977, the lessee shall comply with the terms of the written consent of the qualified surface owner not inconsistent with Federal and state mined land reclamation laws and regulations.

[44 FR 42643, July 19, 1979, as amended at 47 FR 33149, July 30, 1982]

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### § 3471.2-2 Effect of conveyance to state or local entity.

(a) If the United States has conveyed the title to, or otherwise transferred control of the land surface containing the coal deposits to (1) any state or political subdivision, agency, or its instrumentality, (2) a college, any other educational corporation, or association, or (3) to a charitable or religious corporation or association, the transferee shall be notified by certified mail of the application for the license to mine or lease, or the scheduling of a lease sale. The transferee shall be given a reasonable period of time within which to suggest any stipulations necessary for the protection of existing surface improvements or uses to be included in the license or lease and state the supporting facts, or to file any objections to its issuance and state the supporting facts.

(b) Opposition by the state or local entity is not a bar to issuance of the license to mine or lease for the reserved minerals in the lands. (See, however, § 3461.1(b).) In each case, the final determination on whether to issue the license to mine or lease is based on the best interests of the public.

[44 FR 42643, July 19, 1979, as amended at 47 FR 33149, July 30, 1982]

### § 3471.3 Cancellation or forfeiture.

#### § 3471.3-1 Protection of *bona fide* purchaser.

(a) The Secretary's right to cancel or forfeit a lease for any violation shall not adversely affect the title or interest of a *bona fide* purchaser of any lease or any interest therein. A *bona fide* purchaser must be a person, association, or corporation qualified to hold such lease or interest, even though the holdings of the party or parties from which the lease or interest therein was acquired or their predecessor(s) in title (including the original lessee of the United States), may have been cancelled or forfeited for any such violation.

(b) Any party to any proceedings with respect to a violation of any provision of the mineral leasing laws may be dismissed promptly as a party by showing that he/she holds and acquired his/her interest as a *bona fide* purchaser

without having violated any provisions of the mineral leasing laws.

(c) If a party waives his or her rights under the lease, or if such rights are suspended by order of the Secretary pending a decision, rental payments and time counted against the term of the lease shall be suspended as of the first day of the month following the filing of the waiver or the Secretary's suspension until the first day of the month following the final decision in the proceeding or the revocation of the waiver or suspension.

[44 FR 42643, July 19, 1979. Redesignated and amended at 47 FR 33149, July 30, 1982]

### § 3471.3-2 Sale of underlying interests.

If, in any proceeding to cancel or forfeit a lease or any interest therein acquired in violation of any of the provisions of the mineral leasing laws, the lease or interest therein is cancelled or forfeited, and if there are valid options to acquire the lease or an interest therein that are not subject to cancellation, forfeiture, or compulsory disposition, this lease or interest therein shall be sold to the highest responsible qualified bidder by competitive bidding, in a manner similar to that provided for in the offering of leases by competitive bidding, subject to all outstanding valid interests and options. If less than the whole interest in the lease or interest therein is cancelled or forfeited, the partial interest shall be sold in the same way. If no satisfactory offer is obtained as a result of the competitive offering of a whole or partial interest, it may be sold by other methods that the authorized officer finds appropriate. However, the terms shall not be less favorable to the Government than those of the best competitive bid received.

[44 FR 42643, July 19, 1979. Redesignated at 47 FR 33149, July 30, 1982]

### § 3471.4 Future interest, acquired lands.

An application to lease lands in which the United States has a future interest filed more than 2 years prior to the date of the vesting in the United States of the interest in the coal shall be rejected. Any application for a future interest lease outstanding at the

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time of the vesting in the United States of the present possessory interest in the coal shall not lapse, but shall continue to be treated under subpart 3425 of this title. (See 43 CFR 3472.1-2(g).)

[44 FR 42643, July 19, 1979, as amended at 47 FR 33149, July 30, 1982]

### Subpart 3472—Lease Qualification Requirements

#### § 3472.1 Qualifications.

##### § 3472.1-1 Qualified applicants and bidders.

A lease may be issued only to (a) citizens of the United States; (b) associations of citizens organized under the laws of the United States or of any state thereof, which are authorized to hold such interests by the statute under which they are organized and by the instrument establishing their association; (c) corporations organized under the laws of the United States or of any state thereof, including a company or corporation operating a common carrier railroad; and (d) public bodies, including municipalities.

[44 FR 42643, July 19, 1979. Redesignated at 44 FR 56340, Oct. 1, 1979]

##### § 3472.1-2 Special leasing qualifications.

(a) Each applicant or bidder for a lease shall furnish a signed statement showing that, with the area applied or bid for, the applicant or bidder's interests in leases and lease applications, held directly or indirectly, do not exceed in the aggregate the acreage limitation in § 3472.1-3 of this title.

(b) A lease shall not be issued to a minor but may be issued to a legal guardian or trustee on behalf of a minor.

(c) Every company or corporation operating a common carrier railroad shall make a statement that it needs the coal for which it seeks a lease solely for its own railroad use; that it operates main or branch lines in the state in which the lands involved are located; that the aggregate acreage in the leases and applications in which it holds an interest, directly or indirectly, does not exceed 10,240 acres; and

that it does not hold more than one lease for each 200 miles of its railroad lines served or to be served from such coal deposits. This last requirement excludes spurs or switches, branch lines built to connect the leased coal with the railroad, and parts of the railroad operated mainly by power not produced by steam.

(d) Aliens may not acquire or hold any direct or indirect interest in leases, except that they may own or control stock in corporations holding leases if the laws of their country do not deny similar or like privileges to citizens of the United States. If any appreciable percentage of stock of a corporation is held by aliens who are citizens of a country denying similar or like privileges to United States citizens, that corporation's application or bid for a lease shall be rejected, and that corporation's lease shall be subject to cancellation.

(e)(1)(i) On or after December 31, 1986, no lease shall be issued and no existing lease shall be transferred to any entity that holds and has held for 10 years any lease from which the entity is not producing the coal in commercial quantities, except as authorized under the advance royalty or suspension provisions of part 3480 of this chapter, or paragraph (e) (4), (5), or (6) of this section.

(ii) An entity seeking to obtain a working interest in a lease, or approval of a transfer under subpart 3453 of this title, shall qualify both on the date of determination of lessee qualifications and on the date the lease is issued or transfer approved.

(iii) Once a lease has been issued to a qualified entity or transfer approved for a lease under subpart 3453 of this title, disqualification at a later date shall not result in surrender of that lease, or rescission of the approved transfer, except as provided in paragraph (e)(4) of this section.

(2)(i) Any entity seeking to obtain a lease or approval of a transfer of a lease pursuant to 43 CFR Group 3400 of this title shall certify, in writing, that the entity is in compliance with the Act and the requirements of this subpart. The entity's self-certification statement shall include:

(A) A statement that the entity is qualified to be issued a lease or to have a transfer approved in accordance with the presumption of control or the presumption of noncontrol requirements at § 3400.0-5(rr) of this title, and in accordance with the producing requirements at paragraph (e)(6) of this section;

(B) Justification rebutting the presumption of control requirements at § 3400.0-5(rr) of this title, if the entity's instruments of ownership of the voting securities of another entity or of its voting securities by another entity are 20 through 50 percent. The authorized officer, based on the written self-certification statement and other relevant information, shall determine whether the entity has rebutted the presumption of control.

(ii) If a lease is issued, or a transfer approved under subpart 3453 of this title, to an entity based upon an improper, written self-certification of compliance, the authorized officer shall administratively cancel the lease, or rescind the approved transfer, after complying with § 3452.2-2 of this title.

(3) The authorized officer may require an entity holding or seeking to hold an interest in a lease, to furnish, at any time, further evidence of compliance with the special leasing qualifications of this subpart.

(4)(i) An entity, seeking to qualify for lease issuance, or transfer approval under subpart 3453 of this title, shall not be disqualified under the provisions of this subpart if it has one of the following actions pending before the authorized officer for any lease that would otherwise disqualify it under this subpart:

(A) Request for lease relinquishment; or

(B) Application for arm's-length lease assignment; or

(C) Application for approval of a logical mining unit that the authorized officer determines would be producing on its effective date.

(ii) Once a lease has been issued, or transfer approved, to an entity that qualifies under paragraph (e)(4)(i) of this section, an adverse decision by the authorized officer on the pending action, or the withdrawal of the pending action by the applicant, shall result in

termination of the lease or rescission of the transfer approval. Such decision of the authorized officer shall be effective, regardless of appeal of that decision. The possibility of lease termination shall be included as a special stipulation in every lease issued to an entity that qualifies under paragraph (e)(4) of this section.

(iii) The entity shall not qualify for lease issuance or transfer under paragraph (e)(4)(i) of this section during the pendency of an appeal before the Office of Hearings and Appeals from an adverse decision by the authorized officer on any of the actions described in paragraph (e)(4)(i) of this section.

(iv)(A) Where an entity, qualified under this section, had an approved transfer of a lease under subpart 3453 of this title, the transferor retained a right-of-first-refusal, and the entity wishes to relinquish such lease if such lease would otherwise disqualify the entity under this subpart, the entity may file the relinquishment under subpart 3452 of this title. However, the entity shall:

(1) Submit sufficient documentation for the authorized officer to determine that, in fact, such a right-of-first-refusal exists and prevents approval or disapproval by the authorized officer of the pending relinquishment;

(2) Submit with the request for approval of the relinquishment a statement that action by the authorized officer on the pending relinquishment be conditioned on the execution, or lack thereof, of the assignment under the right-of-first-refusal, as well as on the approval or disapproval of the assignment, if executed, under subpart 3453 of this title;

(3) Submit an application for arm's-length lease assignment signed by the entity as well as proof that it has been submitted to the transferor that retained the right-of-first-refusal (e.g., copy of certified mail delivery); and

(4) Submit the name(s) and address(es) of the transferor(s) that retained the right-of-first-refusal.

(B) If the authorized officer determines, based on the information supplied under paragraph (e)(4)(iv)(A) of this section, that the right-of-first-refusal prevents action on the pending relinquishment, the authorized officer

will send, via certified mail, return receipt requested, a request for additional information to the transferor that retained the right-of-first-refusal. The request shall state that the transferor that retained the right-of-first-refusal shall comply with subpart 3453 of this title within 30 days of receipt. If the transferor that retained the right-of-first-refusal does not comply within the 30-day time frame, the authorized officer will:

(1) Disapprove the pending assignment and so notify the entity and the transferor that retained the right-of-first-refusal; and

(2) Process the request for relinquishment under subpart 3452 of this title.

(C) If the authorized officer determines, pursuant to the information submitted under paragraph (e)(4)(iv)(A) of this section, that the right-of-first-refusal does not prevent action on the request for relinquishment, the authorized officer will:

(1) Disapprove the pending assignment and so notify the entity and the transferor that retained the right-of-first-refusal; and

(2) Process the request for relinquishment under subpart 3452 of this title.

(5) Leases that have been mined out (i.e., all recoverable reserves have been exhausted), as determined by the authorized officer, may be held for such purposes as reclamation without disqualification of the entity under the provisions of this subpart.

(6)(i) The authorized officer shall determine the date of first production for the purposes of establishing the beginning of the bracket, if applicable.

(ii) An entity shall not be disqualified under the provisions of this subpart if each lease that the entity holds is:

(A) Producing and is within its bracket;

(B) Producing and has produced commercial quantities during the bracket.

(C) Producing and has achieved production in commercial quantities (an entity holding such a lease is disqualified under section 2(a)(2)(A) of the Act from the end of the bracket until production in commercial quantities is achieved), for leases which fail to produce commercial quantities within the bracket;

(D) Producing, or currently in compliance with the continued operation requirements of part 3480 of this chapter, for leases that began their first production of coal—

(1) On or after August 4, 1976; and

(2) After becoming subject to the diligence provisions of part 3480 of this chapter;

(E) Contained in an approved logical mining unit that is:

(1) Producing or currently in compliance with the LMU continued operation requirements or part 3480 of this chapter; and

(2) In compliance with the logical mining unit stipulations of approval under § 3487.1(e) and (f) of this chapter; or

(F) Relieved of a producing obligation pursuant to paragraph (e) (1), (4), or (5) of this section.

(f) In order to qualify for a lease on acquired lands set apart for military and naval purposes, a governmental entity shall show that it produces electrical energy for sale to the public and that it is located in the state where the lands subject to the application or bid are located.

(g) Any applicant for a lease for lands in which the United States has a future interest shall submit documentation that he or she holds, in fee or by lease, the present interest in the coal deposit subject to the application.

[44 FR 42643, July 19, 1979. Redesignated at 44 FR 56340, Oct. 1, 1979, and amended at 47 FR 33150, July 30, 1982; 51 FR 43922, Dec. 5, 1986; 52 FR 416, Jan. 6, 1987; 62 FR 44370, Aug. 20, 1997]

#### § 3472.1-3 Acreage limitations.

(a)(1) No person, association, or corporation, or any subsidiary, affiliate, or person controlled by or under common control with such person, association, or corporation shall take, hold, own, or control at one time Federal coal leases, lease or lease modification applications, or bids on more than 75,000 acres in any one state and in no case on more than 150,000 acres in the United States.

(2) No person, association, or corporation holding, owning, or controlling leases, lease or lease modification applications or bids (individually or through any subsidiary, affiliate, or

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person under common control) on more than 150,000 acres in the United States on November 7, 2000, shall be required to relinquish any lease or lease application held on that date. However, it shall not be permitted to hold any additional interests in any further leases or lease applications until such time as its holdings, ownership, or control of leases or applications has been reduced below 150,000 acres within the United States.

(b)(1) In computing acreage held, owned or controlled, the accountable acreage of a party holding, owning or controlling an undivided interest in a lease shall be the party's proportionate part of the total lease acreage. Any subsidiary, affiliate or person controlled by or under common control with any corporation, person or association holding, owning or controlling a Federal coal lease shall be charged with lease acreage to the same extent as such corporation, person or association. The accountable acreage of a party holding, owning or controlling an interest in a corporation or association shall be that party's proportionate part of the acreage held, owned or controlled by such corporation or association. However, no party shall be charged with its pro rata share of any acreage held, owned or controlled by any corporation or association unless that party is the beneficial owner of more than 10 percent of the stock or other instruments of ownership or control of such corporation or association.

(2) On acquired lands, if the United States owns only a fractional interest in the coal resources of the lands involved, only that part of the total acreage involved in the lease, proportionate to the extent of ownership by the United States of the coal resources, shall be charged as acreage holdings. The acreage embraced in a future interest lease is not to be charged as acreage holdings until the lease for the future interest takes effect.

[44 FR 42643, July 19, 1979. Redesignated at 44 FR 56340, Oct. 1, 1979, and amended at 47 FR 33150, July 30, 1982; 67 FR 63567, Oct. 15, 2002]

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### **§ 3472.2 Filing of qualification statements.**

#### **§ 3472.2–1 Sole party in interest statement.**

Every applicant or bidder for a lease or license to mine shall submit to the Bureau of Land Management State Office having jurisdiction over the lands in the application or subject to the bid (43 CFR subpart 1821) at the time of filing the application or bid a signed statement that the applicant is the sole party in interest in the application or bid, and the lease or license to mine, if issued. If the applicant or bidder is or will not be the sole party in interest, the applicant or bidder shall set forth the names of the other interested parties in the application or bid. A separate or joint statement shall be signed by them and by the applicant or bidder setting forth the nature and extent of the interest of each in the application or bid, the nature of the agreement between them, if oral, and a copy of such agreement if written. Such separate or joint statement of interest and written agreement, if any, or a statement of the nature of such agreement, if oral, shall accompany the application or bid. All interested parties shall furnish evidence of their qualifications to hold such interest in the lease or license to mine including a statement regarding knowledge of written consent from any qualified surface owner for the area involved (43 CFR subpart 3427).

#### **§ 3472.2–2 Contents of qualification statement.**

(a) If the applicant or bidder is an individual, he shall submit a signed statement setting forth his citizenship with each application or bid for a license to mine or lease.

(b) If the applicant or bidder is an association or partnership, the application or bid shall be accompanied by a certified copy of the articles of association or partnership, together with a statement showing (1) that the association or partnership is authorized to hold a lease or license to mine; (2) that the member or partner executing the lease or license to mine is authorized to act on behalf of the association or partnership in such matters; (3) the names and addresses of all members

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owning or controlling more than 10 percent of the association or partnership and their citizenship and holdings.

(c) If the applicant or bidder for a lease or license to mine is a corporation, it shall submit statements showing:

- (1) The state of incorporation;
- (2) That the corporation is authorized to hold leases or licenses to mine;
- (3) The names of the officers authorized to act on behalf of the corporation;
- (4) The percentage of the corporation's voting stock and all of the stock owned by aliens or those having addresses outside of the United States; and

(5) The name, address, citizenship and acreage holdings of any stockholder owning or controlling 10 percent or more of the corporate stock of any class. If more than 10 percent of the stock is owned or controlled by or on behalf of aliens, or persons who have addresses outside of the United States, the corporation shall provide their names and addresses, the amount of stock held by each such person, and to the extent known to the corporation or which can be reasonably ascertained by it, the facts as to the citizenship of each such person. Applications on behalf of a corporation executed by other than an officer named under paragraph (c)(3) of this section shall be accompanied by proof of the signatory's authority to execute the instrument. The applicant shall submit the same information as is required in the preceding paragraph for any of its corporate stockholders holding, owning or controlling 10 percent or more of its stock of any class.

(d) To qualify as a small business for the purpose of bidding on any tract to be offered as part of a special opportunity lease sale for small businesses, the bidder shall submit evidence demonstrating qualification under 13 CFR part 121.

(e) Where there is a legal guardian or trustee, the following shall be provided:

(1) A copy of the court order or other document authorizing the guardian or trustee to act as such and to fulfill in behalf of the ward or beneficiary all obligations of the lease or other obligations arising thereunder; the person

submitting any such document shall in some manner indicate its authenticity;

(2) A statement by the guardian or trustee as to his or her citizenship and holdings (of acreage in Federal coal leases) in any capacity; i.e., individually and for the benefit of any person; and

(3) A statement by each ward and beneficiary as to his or her citizenship and holdings; if the ward or beneficiary is a minor, the statement shall be executed for the minor by the guardian or trustee, as appropriate.

(f) The Department reserves the right to request any supplementary information that is needed to accredit acreage under § 3472.1-3 of this title.

(g) Any applicant or bidder who has previously filed a qualification statement may, if it certifies that the prior statement remains complete, current and accurate, submit a serial number reference to the record and office where the prior statement is filed.

[44 FR 42643, July 19, 1979, as amended at 47 FR 33150, July 30, 1982]

### § 3472.2-3 Signature of applicant.

(a) Every application or bid for a lease or license to mine shall be signed by the applicant or bidder or by its attorney-in-fact. If executed by an attorney-in-fact the application or bid shall be accompanied by the power of attorney and the applicant's own statement as to citizenship and acreage holdings unless the power of attorney specifically authorizes and empowers the attorney-in-fact to make such statement or to execute all statements which may be required under these regulations.

(b) If the application or bid is signed by an attorney-in-fact or agent, it shall be accompanied by:

(1) A statement over the signature of the attorney-in-fact or agent; and

(2) A separate statement personally signed by the applicant or bidder stating whether there is any agreement or undertaking, written or oral, whereby the attorney-in-fact or agent has or is to receive any interest in the lease, if issued.

### § 3472.2-4 Special qualifications heirs and devisees (estates).

(a) If an applicant or bidder for a license to mine or a lease dies before the



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license to mine or lease is issued, the license or lease shall be issued: If the estate has not been probated, to the executor or administrator of the estate; if probate has been completed, or is not required, to the heirs or devisees; and if their are minor heirs or devisees, to their legal guardian or trustee.

(b) The lease or license to mine shall not issue until the following information has been filed:

(1) Where probate of the estate has not been completed:

(i) Evidence that the person who acts as executor or administrator has the authority to act in that capacity and to act on the application or bid;

(ii) Evidence that the heirs or devisees are the heirs or devisees of the deceased applicant or bidder, and are the only heirs or devisees of the deceased; and

(iii) A statement over the signature of each heir or devisee concerning citizenship and holdings.

(2) Where the executor or administrator has been discharged or no probate proceedings are required: (i) A certified copy of the will or decree of distribution, if any, and if not, a statement signed by the heirs that they are the only heirs of the applicant or bidder, and citing the provisions of the law of the deceased's last domicile showing that no probate is required; and (ii) a statement over the signature of each of the heirs or devisees with reference to citizenship and holdings, except that if the heir or devisee is a minor, the statement shall be over the signature of the guardian or trustee.

## § 3472.2-5 Special qualifications, public bodies.

(a) To qualify to bid for a lease on a tract offered for sale under § 3420.1-3 of this title, a public body shall submit:

(1) Evidence of the manner in which it is organized;

(2) Evidence that it is authorized to hold a lease;

(3) A definite plan as described in § 3420.1-3(b) to produce energy within 10 years of issuance of the prospective lease solely for its own use or for sale to its members or customers (except for short-term sales to others); and

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(4) Evidence that the definite plan has been duly authorized by its governing body.

(b) To obtain a license to mine, a municipality shall submit with its application:

(1) Evidence of the manner in which it is organized;

(2) Evidence that it is authorized to hold a license to mine; and

(3) Evidence that the action proposed has been duly authorized by its governing body.

(c) To qualify to bid for a lease on a tract of acquired land set apart for military or naval purposes, a governmental entity shall submit:

(1) Evidence of the manner in which it is organized, including the State in which it is located;

(2) Evidence that it is authorized to hold a lease;

(3) Evidence that the action proposed has been duly authorized by its own governing body; and

(4) Evidence that it is producing electricity for sale to the public in the state where the lands to be leased are located.

(d) If the material required in paragraphs (a), (b), or (c) of this section has previously been filed, a reference to the serial number of the record in which it has been filed, together with a statement as to any amendments, shall be accepted.

[44 FR 42643, July 19, 1979, as amended at 47 FR 33150, July 30, 1982]

## Subpart 3473—Fees, Rentals, and Royalties

### § 3473.1 Payments.

#### § 3473.1-1 Form of remittance.

All remittances shall be by U.S. currency, postal money order or negotiable instrument payable in U.S. currency and shall be made payable to the Department of the Interior—Bureau of Land Management or the Department of the Interior—Minerals Management Service, as appropriate. In the case of payments made to the Service, such payments may also be made by electronic funds transfer.

[49 FR 11638, Mar. 27, 1984]

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### § 3473.1-2 Where submitted.

(a)(1) All first-year rentals and the first-year portions of all bonuses for leases issued under Group 3400 of this title shall be paid to the Bureau of Land Management State office having jurisdiction over the lands (43 CFR subpart 1821).

(2) All second-year and subsequent rentals and deferred bonus amounts payable after the initial payment for leases shall be paid to the Service.

(b) All royalties on producing leases, all payments under leases in their minimum production period, and all advance royalties shall be paid to the Service.

[49 FR 11638, Mar. 27, 1984, as amended at 49 FR 39330, Oct. 5, 1984]

### § 3473.1-3 When paid.

First year's rental for preference right leases shall be remitted at the time of filing the applications. First year's rental for competitive leases shall be payable when required by decision. Thereafter, rental for all leases shall be paid in accordance with the lease provisions.

### § 3473.2 Fees.

(a) An application for a license to mine must include payment of the filing fee found in the fee schedule in § 3000.12 of this chapter. BLM may waive the filing fee for applications filed by relief agencies as provided in § 3440.1-1(b) of this chapter.

(b) An application for an exploration license must include payment of the filing fee found in the fee schedule in § 3000.12 of this chapter.

(c) An instrument of transfer of a lease or an interest in a lease must include payment of the filing fee found in the fee schedule in § 3000.12 of this chapter.

(d) BLM will charge applicants for a royalty rate reduction a processing fee on a case-by-case basis as described in § 3000.11 of this chapter.

(e) BLM will charge applicants for logical mining unit formation or modification a processing fee on a case-by-case basis as described in § 3000.11 of this chapter.

(f) The applicant who nominates a tract for a competitive lease sale must

pay a processing fee on a case-by-case basis as described in § 3000.11 of this chapter as modified by the provisions below. BLM will include in the sale notice under § 3422.2(b)(9) of this chapter a statement of the total cost recovery fee paid to BLM by the applicant up to 30 days before the competitive lease sale. The cost recovery process for a competitive coal lease follows:

(1) The applicant nominating the tract for competitive leasing must pay the cost recovery amount before BLM will publish a notice of the competitive lease sale;

(2) Before the lease is issued:

(i) The successful bidder, if someone other than the applicant, must pay to BLM the cost recovery amount specified in the sale notice; and

(ii) The successful bidder must pay all processing costs BLM incurs after the date of the sale notice;

(3) If the successful bidder is someone other than the applicant, BLM will refund to the applicant the amount paid under paragraph (f)(1) of this section; and

(4) If there is no successful bidder, the applicant remains responsible for all processing fees.

(g) BLM will charge applicants for modification of a coal lease a processing fee on a case-by-case basis as described in § 3000.11 of this chapter.

[70 FR 58876, Oct. 7, 2005]

### § 3473.3 Rentals and royalties.

#### § 3473.3-1 Rentals.

(a) The annual rental per acre or fraction thereof on any lease issued or readjusted after the promulgation of this subpart shall not be less than \$3. The amount of the rental will be specified in the lease.

(b) Until a lease issued before August 4, 1976, is readjusted, the rental paid for any year shall be credited against the royalties for that year.

(c) On leases issued or readjusted after August 4, 1976, rental payments shall not be credited against royalties.

(d) Rentals paid for any lease year commencing prior to the effective date of the first lease readjustment occurring after August 4, 1976, shall be credited against royalties for that year. Rentals due and payable for any lease

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year commencing on or after the effective date of the readjustment shall not be credited against royalties.

[44 FR 42643, July 19, 1979, as amended at 47 FR 33150, July 30, 1982]

### § 3473.3-2 Royalties.

(a)(1) A lease shall require payment of a royalty of not less than 12½ percent of the value of the coal removed from a surface mine.

(2) A lease shall require payment of a royalty of 8 percent of the value of coal removed from an underground mine.

(3) The value of coal removed from a mine is defined for royalty purposes in § 3483.4 of this title.

(b) The royalty rates specified in paragraph (a) of this section shall be applied to new leases at the time of issuance and to previously issued leases at the time of the next scheduled readjustment of the lease.

(c) The authorized officer shall have the discretion, upon the request of the lessee, to authorize the payment of an advance royalty in lieu of continued operation for any particular year in accordance with § 3485.2 of this title.

(d) An overriding royalty interest, production payment or similar interest that exceeds 50 percent of royalty first payable to the United States under the Federal lease, or when added to any other overriding royalty interest exceeds that percentage, except those created in order to finance a mine, shall not be created by a Federal lease transfer or surface owner consent. However, when an interest in a Federal lease or operating agreement is transferred, the transferor may retain an overriding royalty in excess of the above limitation if he/she shows that he/she has made substantial investments for improvements directly related to exploration, development and mining on the lands covered by the transfer that would justify a higher payment.

(e) The Secretary, whenever he/she determines it necessary to promote development or finds that the lease cannot be successfully operated under its terms, may waive, suspend or reduce the rental, or reduce the royalty but not advance royalty, on an entire leasehold, or on any deposit, tract or portion thereof, except that in no case

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shall the royalty be reduced to zero percent. An application for any of these benefits shall be filed with the authorized officer in accordance with part 3480 of this title.

[44 FR 42643, July 19, 1979, as amended at 47 FR 33151, July 30, 1982; 50 FR 8627, Mar. 4, 1985; 55 FR 2664, Jan. 26, 1990]

### § 3473.4 Suspension of operations, production, and payment obligations.

(a) Application by a lessee for relief from any operating and producing requirements of a lease; shall be filed in triplicate in the office of the Mining Supervisor in accordance with 43 CFR part 3480.

(b) The term of any lease shall be extended by adding thereto any period of suspension of all operations and production during such term in accordance with any direction or assent of the Mining Supervisor.

[44 FR 42643, July 19, 1979, as amended at 47 FR 33151, July 30, 1982]

## Subpart 3474—Bonds

### § 3474.1 Bonding requirements.

(a) Before a lease may be issued, one of the following forms of lease bond shall be furnished:

(1) Corporate surety bonds;

(2) Cash bond; or

(3) Personal lease bonds secured by negotiable U.S. bonds of a par value equal to the amount of the required surety bond, together with a power of attorney executed on a form approved by the Director.

(b) The applicant or bidder shall file the lease bond in the proper office within 30 days of receiving notice. The lease bond shall be furnished on a form approved by the Director.

(c) The bonding obligation for a new lease may be met by an adjustment to an existing LMU bond covering the other leases within the same LMU.

[44 FR 42643, July 19, 1979, as amended at 47 FR 33151, July 30, 1982]

### § 3474.2 Type of bond required.

(a) A lease bond for each lease, conditioned upon compliance with all terms and conditions of the lease, shall be furnished in the amount determined by

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the authorized officer. Except as provided in §3474.3(b) of this title, that bond shall not cover reclamation within a permit area.

(b) For exploration licenses, a bond shall be furnished in accordance with §3410.3-4 of this title.

(c)(1) Upon approval of an LMU including more than 1 Federal lease, the lessee may, in lieu of individual lease bonds, furnish and maintain an LMU bond covering all of the terms and conditions of every Federal lease within the LMU, except for reclamation within the mining permit area unless the condition in §3474.3(b) of this title applies. All LMU bonds shall be furnished in the amount recommended by the Mining Supervisor.

(2) When an LMU is terminated, the LMU bond shall terminate. Individual leases remaining from the LMU shall be covered by lease bonds in the manner prescribed by the Mining Supervisor.

[44 FR 56340, Oct. 1, 1979, as amended at 47 FR 33151, July 30, 1982]

### § 3474.3 Bond conversions.

(a) The authorized officer shall notify those leaseholders who have nationwide or statewide bonds at the time of issuance of this subpart of the requirement to secure a separate lease bond for each lease in the amount determined by the authorized officer to be proper and necessary.

(b)(1) In setting or adjusting individual lease bond amounts, the authorized officer shall assure that the lease bond covers reclamation within a permit area where the Surface Mining Officer, because of the absence of a cooperative agreement governing Federal lands within that state, notifies the authorized officer that the lease bond should cover that reclamation.

(2) After consultation with the Surface Mining Officer, the authorized officer may release the amount of any outstanding bond which is related to, and is not necessary to secure, the performance of reclamation within a permit area.

[44 FR 42643, July 19, 1979, as amended at 47 FR 33151, July 30, 1982]

### § 3474.4 Qualified sureties.

A list of companies holding certificates of authority from the Secretary of the Treasury under the Act of July 30, 1947 (6 U.S.C. 6-14) as acceptable sureties on Federal bonds is published annually in the FEDERAL REGISTER.

### § 3474.5 Default.

When the surety makes payment to the Government of any indebtedness due under a lease, the face amount of the surety bond and the surety's liability thereunder shall be reduced by the amount of such payment.

### § 3474.6 Termination of the period of liability.

The authorized officer shall not consent to termination of the period of liability under the lease bond unless an acceptable substitute bond has been filed or until all terms and conditions of the lease have been fulfilled.

## Subpart 3475—Lease Terms

### § 3475.1 Lease form.

Leases shall be issued on a standard form approved by the Director. The authorized officer may modify those provisions of the standard form which are not required by statute or regulations and may add such additional stipulations and conditions as he/she deems appropriate.

[47 FR 33151, July 30, 1982]

### § 3475.2 Duration of leases.

Leases shall be issued for a period of 20 years and so long thereafter as the condition of continued operation is met. If the condition of continued operation is not met the lease shall be cancelled as provided in §3452.2 of this title.

[44 FR 42643, July 19, 1979. Redesignated at 47 FR 33151, July 30, 1982]

### § 3475.3 Dating of leases.

(a) Leases will be dated and made effective the first day of the month following the date signed by the authorized officer. However, upon receipt of a prior written request, the authorized officer may date a lease to be effective

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on the first day of the month in which it is signed.

(b) Future interest leases shall become effective on the date of vesting of title to the minerals in the United States as stated in the lease.

[44 FR 42643, July 19, 1979. Redesignated at 47 FR 33151, July 30, 1982]

#### § 3475.4 Land description.

Compliance with § 3471.1 of this title is required.

[44 FR 42643, July 19, 1979. Redesignated at 47 FR 33151, July 30, 1982]

#### § 3475.5 Diligent development and continued operation.

In accordance with part 3480 of this title, each lease shall require:

(a) Diligent development; and

(b) Either (1) continued operation except when operations under the lease are interrupted by strikes, the elements or casualties not attributable to the lessee, or (2) in lieu thereof, when the Secretary determines that the public interest will be served, payment of an advanced royalty.

[47 FR 33151, July 30, 1982, as amended at 50 FR 8627, Mar. 4, 1985]

#### § 3475.6 Logical mining unit.

(a) Criteria for approving or directing establishment of an LMU shall be developed and applied in accordance with § 3487.1 of this title.

(b) When a lease is included in an LMU with other Federal leases or with interests in non-Federal coal deposits, the terms and conditions of the Federal lease or leases shall be amended so that they are consistent with or are superseded by the requirements imposed on the LMU of which it has become a part.

(c) The holder of any lease issued or readjusted between May 7, 1976, and the effective date of this regulation, whose lease provides by its own terms that it is considered to be an LMU, may request removal of this provision from any such lease. Such request shall be submitted to the authorized officer.

[47 FR 33151, July 30, 1982, as amended at 50 FR 8627, Mar. 4, 1985]

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### PART 3480—COAL EXPLORATION AND MINING OPERATIONS RULES

NOTE1: The information collection requirements contained in 43 CFR part 3480 which require the filing of forms have been approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507. The Coal Production and Royalty Report form in 30 CFR 211.62(d)(1), U.S. Geological Survey Form 9-373A, has been approved by OMB under 44 U.S.C. 3507 and assigned clearance number 1028-0001.

The information is being collected for Federal royalty accounting purposes. The information will be used to permit accounting and auditing of royalties submitted by the operators/lessees of Federal coal leases. The obligation to respond is mandatory for all operators/lessees of Federal coal leases. For nonproducing Federal leases, the report is required on an annual basis. For producing Federal leases, the report is required monthly or quarterly as specified in the Federal lease.

The information collection requirements contained at §§ 3481.1, 3481.2, 3482.2, 3482.3, 3483.3, 3483.4, 3485.1, 3485.2, 3486.3 and 3487.1 of this title have been approved by OMB under 44 U.S.C. 3507 and assigned clearance number 1028-0042. The information may be collected from some operators/lessees to either provide data so that proposed operations may be approved or to enable the monitoring of compliance with approvals already granted. The information will be used to grant approval to begin or alter operations or to allow operations to continue. The obligation to respond is required to obtain the benefit under the Federal lease.

NOTE 2: There are many leases and agreements currently in effect, and which will remain in effect, involving Federal coal leases which specifically refer to the United States Geological Survey, USGS, Minerals Management Service, MMS, or Conservation Division. These leases and agreements also often specifically refer to various officers such as Supervisor, Conservation Manager, Deputy Conservation Manager, Minerals Manager and Deputy Minerals Manager. In addition, many leases and agreements specifically refer to 30 CFR part 211 or specific sections thereof. Those references shall now be read to refer to 43 CFR part 3480 or to the appropriate redesignated section thereof.

#### Subpart 3480—Coal Exploration and Mining Operations Rules: General

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